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MESSAGE FROM THE SENATE

A message from the Senate by Ms. Curtis, one of its clerks, announced that the Senate agrees to the amendment of the House to the bill (S. 1749) "An Act to amend title 18, United States Code, to prohibit the possession or use of cell phones and similar wireless devices by Federal prisoners."

□ 1030

PROVIDING FOR CONSIDERATION OF H.R. 5850, TRANSPORTATION, HOUSING AND URBAN DEVELOPMENT, AND RELATED AGENCIES APPROPRIATIONS ACT, 2011

Mr. ARCURI. Madam Speaker, by direction of the Committee on Rules, I call up House Resolution 1569 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 1569

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 2(b) of rule XVIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 5850) making appropriations for the Departments of Transportation, and Housing and Urban Development, and related agencies for the fiscal year ending September 30, 2011, and for other purposes. The first reading of the bill shall be dispensed with. All points of order against consideration of the bill are waived except those arising under clause 9 or 10 of rule XXI. General debate shall be confined to the bill and shall not exceed one hour equally divided and controlled by the chair and ranking minority member of the Committee on Appropriations. After general debate the bill shall be considered for amendment under the five-minute rule. The bill shall be considered as read through page 171, line 17. Points of order against provisions in the bill for failure to comply with clause 2 of rule XXI are waived. Notwithstanding clause 11 of rule XVIII, except as provided in section 2, no amendment shall be in order except: (1) the amendments printed in part A of the report of the Committee on Rules accompanying this resolution; and (2) not to exceed four of the amendments printed in part B of the report of the Committee on Rules if offered by Representative Flake of Arizona or his designee. Each such amendment may be offered only in the order printed in the report, may be offered only by a Member designated in the report, shall be considered as read, shall be debatable for 10 minutes equally divided and controlled by the proponent and an opponent, and shall not be subject to a demand for division of the question. All points of order against such amendments are waived except those arising under clause 9 or 10 of rule XXI. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. In case of sundry amendments reported from the Committee, the question of their adoption shall be put to the House en gros and without division of the question. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

SEC. 2. After disposition of the amendments specified in the first section of the resolution, the chair and ranking minority member of the Committee on Appropriations or their designees each may offer one pro forma amendment to the bill for the purpose of debate, which shall be controlled by the proponent.

SEC. 3. The Chair may entertain a motion that the Committee rise only if offered by the chair of the Committee on Appropriations or his designee. The Chair may not entertain a motion to strike out the enacting words of the bill (as described in clause 9 of rule XVIII).

POINT OF ORDER

Mr. FLAKE. Madam Speaker, I raise a point of order against H. Res. 1569 because the resolution violates section 426(a) of the Congressional Budget Act. The resolution contains a waiver of all points of order against consideration of the bill, which includes a waiver of section 425 of the Congressional Budget Act, which causes the violation of section 426(a).

The SPEAKER pro tempore. The gentleman from Arizona makes a point of order that the resolution violates section 426(a) of the Congressional Budget Act of 1974.

The gentleman has met the threshold burden under the rule, and the gentleman from Arizona and the gentleman from New York each will control 10 minutes of debate on the question of consideration. After that debate, the Chair will put the question of consideration as the statutory means of disposing of the point of order.

The Chair recognizes the gentleman from Arizona.

Mr. FLAKE. Madam Speaker, I raise this point of order today not to debate a point of unfunded mandates, although there are probably some in the legislation. It is simply the only opportunity that members of the minority have to stand up and talk about this process. We are only given a minimal amount of time on the rule, itself, and, on the bill, just an hour of debate and then amendment debate. Unfortunately, although we have had an open process in terms of amendments on appropriation bills for as long as any of us can remember—for decades and decades and decades—for the last couple of years, we have had structured rules come to the floor where members of the minority and the majority aren't allowed to offer the amendments that they would like.

Traditionally, Members could offer any amendment as long as it was germane and as long as it struck spending from the legislation and it was legislated on an appropriation bill. Yet this year and last year, for the first time, Members can't bring amendments to the floor. They have to submit them to the Rules Committee. Then the Rules Committee decides which ones they want to allow on the floor and which ones they don't or they will decide, Oh, you've offered 12 amendments, but you can only offer four. This limits the ability of the minority, in particular, to actually stand up and try to save money in the legislation.

We have to remember that every bill we consider this year, every appropriation bill—and unfortunately, probably, we are only going to consider two until after the election. Of the ones we consider, 42 cents of every dollar we spend we are borrowing. We are borrowing 42 cents of every dollar we are spending for whatever we spend it on.

Now, I think it is perfectly right and proper to ask: Is this right to spend, for example, money on, well, in this case, 461 earmarks in this piece of legislation alone? Some of them are for bike paths and street beautification. These are all good things, but they have no Federal nexus. They shouldn't be paid for by the Federal taxpayer. Yet, when we try to bring these amendments to the floor to debate them, only a few are allowed. Why is that?

I would ask if the gentleman representing the Rules Committee can explain why this is happening, why in the world we are so hard-pressed for time now, apparently, that we can only consider a couple of amendments, 22 percent of those that were offered.

I reserve the balance of my time.

Mr. ARCURI. I yield myself such time as I may consume.

Madam Speaker, it is clear that this point of order has nothing to do with unfunded mandates. Technically, this point of order is about whether or not to consider this rule and, ultimately, the underlying bill. In reality, it is about preventing the bill from moving forward without any opportunity for debate and without any opportunity for an up-or-down vote on the legislation, itself. It is about slamming the door on the legislative process.

I think that is wrong, and I hope my colleagues will vote "yes" so that we can consider this important legislation on its merits and not stop it on a procedural motion. Let's stop wasting time on parliamentary roadblocks and get to the debate on this legislation, itself. It is a very important piece of legislation that has critical funding pieces in there for transportation and for housing. Those who oppose the bill can vote against it on final passage, but we must consider this rule, and we must pass the bill today.

I reserve the balance of my time.

Mr. FLAKE. I thank the gentleman.

Madam Speaker, slamming the door on the legislative process. My taking 10 minutes to talk about this rule is slamming the door on the legislative process.

How is that?

What I am here to talk about is how the door has been slammed on the legislative process. The inability of Members to come and offer amendments to appropriation bills to try and save money is what is slamming the door on the legislative process. It has nothing to do with somebody's standing up and claiming time to speak against the rule.

So that is just baffling to me and to anybody out there, listening, when they learn that I offered 11 amendments. There were 461 earmarks which